

### **REMARKS**

Claims 22, 24-31, and 33-42 are pending and under current examination. Applicants respectfully traverse the rejection of claims 22, 24-31, and 33-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Pub. No. 2002/0145982 (“Talpade”) in view of U.S. Patent Application Pub. No. 2003/0100299 (“Ko”).

#### **Rejection of Claims 22, 24-31, and 33-42 under 35 U.S.C. § 103(a):**

Applicants request reconsideration and withdrawal of the rejection of claims 22, 24-31, and 33-42 under 35 U.S.C. § 103(a) as being unpatentable over Talpade in view of Ko.

First, in the “Response to Arguments” section of the Final Office Action, the Examiner asserted that Applicants’ arguments “have been considered but are moot in view of new ground(s) of rejection.” Final Office Action, page 2. In this case, the M.P.E.P. requires that “[t]he examiner must, however, address any arguments presented by the applicant which are still relevant to any references being applied.” M.P.E.P. § 707.07(f). The Final Office Action, however, applied the same art and nearly identical reasons to reject Applicants’ amended claims *without* addressing any arguments presented by the Applicants in the Amendment filed June 15, 2009. *See* Final Office Action, pages 2-9. Therefore, the final rejection of pending claims is improper for at least this reason.

Second, the Final Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Final Office Action has not properly determined the scope and content of the prior art, nor has the Final Office Action properly ascertained the differences between the claimed invention and the prior art, at least

because the Final Office Action has not properly interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Specifically, Talpade does not disclose or suggest at least the following features recited in claim 22 (emphases added, claim 31 containing similar recitations):

dynamically configuring said objects, using the computer, to simulate the supply of the service corresponding to said selectively identified quality of service profile; and

inserting, for at least one network user, a respective parameter related to a particular respective quality of service profile, wherein the steps are applied for simulating networks comprising mobile terminals cooperating with blocks or network devices, and wherein said parameter is transferred from said terminal to said block or network device.

Regarding the claimed “dynamically configuring...”, the Final Office Action alleged that paragraphs [0029], [0037], and Fig. 2, items #240 and #270 of Talpade disclose the features recited in this claim element. See Final Office Action, page 4. This is incorrect. Applicants respectfully point out that the Final Office Action has misinterpreted Talpade.

As discussed in the Amendment filed on June 15, 2009, Applicants clearly explained that Talpade’s simulator may determine quality of service (QoS) mechanisms, which is, QoS algorithms for controlling network resources. See Talpade, ¶ [0025] and Fig. 2, item #210. This is clearly different from Applicants’ claimed “quality of service profile,” as recited in claim 22 (and similarly in claim 31).

Moreover, steps 240 and 270 in Fig. 2 of Talpade are not performed by simulator 160, rather, these steps are performed by an ISP administrator and admission controller 170, respectively. See Talpade, paragraphs [0027] and [0030]. That is, these steps are no longer simulations, but administration steps happened in physical network.

Ko does not cure the deficiencies of Talpade. As presented in the Amendment filed on June 15, 2009, Ko discloses a method of testing a physical digital mobile network using physical mobile devices in the testing, i.e., not computer simulation. *See Ko*, Abstract, paragraph [0060], and claim 1. Therefore, Ko does not teach or suggest the claimed “dynamically configuring...”

Regarding the claimed “inserting,” the Final Office Action admitted that Talpade “fails [to] expressly [ ] disclose mobile terminals cooperating with blocks or network devices, and wherein said parameter is transferred from said terminal to said block or network device.” Final Office Action, page 4. However, the Final Office Action alleged that Ko discloses this claim element. *See* Final Office Action, pages 4-5. This is also incorrect.

Ko does not cure the deficiencies of Talpade with respect to at least the claimed “inserting.” For example, Ko discloses that “test traffic may be sent to or received from the further device by the terminal 508.” Ko, paragraph [0100]. Here, the “test traffic” refers to “test voice or data traffic, ..., in which is embedded measurement data or statistics and other information such as GPS position information.” *Id.* This is clearly different from Applicants’ claimed “parameter related to a particular respective quality of service profile,” as recited in claim 22 (and similarly in claim 31).

Thus, the Final Office Action has not properly determined the scope and content of the prior art, nor has the Final Office Action properly ascertained the differences between the prior art and the claimed invention. Independent claims 22 and 31 are not obvious over Talpade and Ko, whether taken alone or in combination. Dependent claims 24-30 and 33-42 should also be allowable at least by virtue of their respective dependence from base claim 22 or 31, and because they recite additional features not taught or suggested by Talpade and Ko. Accordingly, Applicants respectfully request withdrawal of the rejection.

**Conclusion:**

Applicants request reconsideration of the application and withdrawal of the rejection. Pending claims 22, 24-31, and 33-42 are in condition for allowance, and Applicants request a favorable action. This Request for Reconsideration after Final does not raise any new issues or require the Examiner to undertake another search of the art, and should therefore allow for immediate and favorable action.

The Final Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any such statements in the Final Office Action.

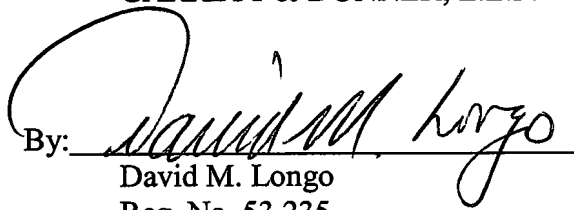
If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By:   
David M. Longo  
Reg. No. 53,235

/direct telephone: (571) 203-2763/